

GECOM's lawyer warns CEO against starting house-to-house

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The Guyana Elections Commission (GECOM) has been warned against plans to begin a national house-to-house registration exercise, which its in-house lawyer says could be seen as contravening the judgment of the Caribbean Court of Justice (CCJ) on the no-confidence motion against government.

Opposition Leader Bharrat Jagdeo yesterday called reported plans by GECOM to pursue a national house-to-house registration exercise from Saturday to be "open defiance" of the constitution and the CCJ and his party, the PPP, called on all Guyanese to "protest" the commencement of any such exercise.

Stabroek News was able to independently verify that following a request from Chief Election Officer (CEO) Keith Lowenfield on Tuesday, July 16th, GECOM's in-house lawyer, Excellence Dazzell, submitted an opinion that argued that the commission is bound by the judgment, which reiterated that the December 21st, 2018 motion of no-confidence against the government was properly passed by the National Assembly and that the clear provisions of Article 106 immediately became engaged.

Article 106 (6) says, "The Cabinet including the President shall resign if the Government is defeated by the vote of a majority of all the elected members of the National Assembly on a vote of confidence." Article 106 (7) adds, "Notwithstanding its defeat, the Government shall remain in office and shall hold an election within three months, or such longer period as the National Assembly shall by resolution supported by not less than two-thirds of the votes of all the elected members of the National Assembly determine, and shall resign after the President takes the oath of office following the elections."

Government, which has been lobbying for a house-to-house registration exercise, has since said that while it accepts its "interim" status, Cabinet is continuing to function. It has also emphasised the need for the urgent appointment of a new Chairperson of GECOM in order for the agency to advise the president on the holding of polls.

This newspaper understands that Dazzell advised that any action which contravenes the judgment is a contempt of court. While an updated electors' list is necessary for new elections, as the previous listed expired at the end of April, the attorney has advised that the updating must be achieved by the swiftest means possible, which would be through a limited claims and objections period.

The opinion is said to also warn that a rushed house-to-house exercise could have grave repercussions for the accuracy of the list and therefore that the process be halted.

"They are embarking on a process which they know will not end with elections being held in three months, so clearly [Chief Election Officer Keith] Lowenfield is in contempt of court," Jagdeo told a press conference yesterday.

He noted that this position has been communicated to Lowenfield not only by him and the opposition-nominated commissioners but also through recent advice from Dazzell.

"This very week they had a legal opinion saying GECOM has no choice but to comply with the order of court. Therefore, house-to-house cannot be pursued unless it can be completed in three months to meet deadline established by the CCJ," Jagdeo said.

Repeated attempts to reach Lowenfield and GECOM Public Relations Officer Yolanda Ward for comment on the issue proved futile as neither party answered the mobile phones and Lowenfield's office maintained he was out.

Receipt

Lowenfield appears to have sought the opinion following a visit from opposition-nominated commissioners Robeson Benn and Sase Gunraj on Monday and receipt of a letter from Jagdeo's lawyer, Anil Nandlall, on Tuesday.

In his letter, Nandlall requested that Lowenfield immediately begin preparing for general elections on a date no later than September 18th, 2019. The two-party system, which is a requirement of the constitution, is at risk of being undermined if the Chief Election Officer he is bound to respect the ruling since GECOM was a party to the proceedings and he stressed that failure to prepare for elections in three

months would be acting in contempt of the court's ruling.

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Benn indicated that during the Monday meeting with Lowenfield, both he and Gunraj communicated the same position to the CEO.

"We pressed for him to get legal advice on house-to-house since it would fly in face of the CCJ ruling," Benn said, while adding that Lowenfield had shared an order signed by the former Chair, retired judge James Patterson, directing that house-to-house registration begin on July 20th.

The order, which was signed on June 11th but not published until July 17, also came in for criticism from Jagdeo.

"On Tuesday of this week, we checked for that order and... the June 11th order was not on the [official gazette] website. On Wednesday, it appears there. If they did publish it [before Wednesday], they hid it because they didn't want the CCJ to know they wanted to undermine the case before it," Jagdeo said, while charging that in any case the July 12th ruling by the CCJ nullified the order, whether legal or illegal.

He reminded that members of the international community had issued a statement saying that all actors must comply with decision of the court and he stressed that GECOM is one of those actors.

According to Jagdeo, he has met with members of the regional and international community and briefed them "on the rogue action of GECOM" as well as informed them that he "expects them to adjust their relationship with government in keeping with the court ruling."

He also expressed dissatisfaction with the response from the Carib-bean Community to the court's decisions and government's reactions.

"CARICOM needs to take an even stronger role. I am surprised that I have not even seen a statement coming from it as yet...we cannot be busy sending missions to Haiti, when they have an interruption of Constitutional rule, or Venezuela, when they have a breakdown of democratic order, and here in Guyana, which is the headquarter state of CARICOM, ignore that you have a government now in office, that is illegally there because elections should have been held since March 21st," he argued.

Meanwhile, the PPP, in a brief statement, called on "all Guyanese to protest" what it dubbed an "unlawful" conduct of house-to-house registration.

The party said it had not received any official communication from GECOM and numerous calls to the Lowenfield had gone unanswered.

It maintained that house-to-house registration "is a clear violation" of the orders of the CCJ.

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